

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - NE/S Route 40, 5177 NE of Middle River Road (9624 Pulaski Highway) 15th Election District 5th Councilmanic District

Nicholas Cavalieros
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-78-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing and a Petition for Variance filed by the owner of the subject property, Nicholas Cavalieros, through his attorney, Edward C. Covahey, Jr., Esquire. The Petitioner requests approval of an amendment to the previously approved special exception and site plan in Case No. 84-135-XA, and variance relief from Sections 255.1 and 238.2 of the Baltimore County Zoning Regulations to permit a side yard setback of 15 feet in lieu of the required 30 feet for a proposed addition, and a rear yard setback of 24 feet in lieu of the required 30 feet for an existing addition. The relief requested is more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitioner were Edward C. Covahey, Jr., Esquire. There were no Protestants present.

Testimony indicated that the subject property, known as 9622 Pulaski Highway, consists 0.615 acres zoned M.L.-I.M. and is improved with a one-story masonry building. Said property was the subject of prior Case No. 84-135-XA, in which a special exception and variance were granted to permit a 40' x 40' service garage addition to an existing service garage. The Petitioner now comes before this Deputy Zoning Commissioner seeking an amendment to the previously approved special exception and site plan to

permit a 50' x 40' addition to the rear of the existing building and to permit utilization of an adjacent 0.0153 acre parcel, zoned M.L.-C.S.I for a maneuvering area. In addition, the Petitioner seeks a variance to correct an error on the previously approved site plan in Case No. 84-135-XA. Testimony revealed that the proposed addition is necessary to provide more service bays for the Petitioner's growing automotive service business. Due to the location of the existing building on the lot, the requested variance is necessary in order for the Petitioner to proceed as proposed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variance are not granted. It has been estab-

lished that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing and variance relief sought should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of October, 1993 that the Petition for Special Hearing to amend the previously approved special exception and site plan in Case No. 84-135-XA, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 255.1 and 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 15 feet in lieu of the required 30 feet for a proposed addition, and a rear yard setback of 24 feet in lieu of the required 30 feet for an existing addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy H. Kupfrock
TIMOTHY H. KUPFROCK
Deputy Zoning Commissioner
for Baltimore County

Baltimore County Department
Zoning Administration
Office of Planning and Zoning

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

Edward C. Covahey, Jr., Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
NE/S Route 40, 5177 NE of Middle River Road
(9624 Pulaski Highway)
15th Election District 5th Councilmanic District
Nicholas Cavalieros - Petitioner
Case No. 94-78-SPHA

Dear Mr. Covahey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The petition for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-1391.

Very truly yours,

Timothy H. Kupfrock
TIMOTHY H. KUPFROCK
Deputy Zoning Commissioner
for Baltimore County

TMK:hjs

cc: Petitioner's Counsel

File

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 15th Date of Posting: 9/10/93
Posted for: Special Hearing & Variance
Petitioner: Nicholas Cavalieros
Location of property: 9624 Pulaski Highway, Baltimore, MD 21204
Location of Signs: Along side of property, near entrance
Remarks:
Posted by: Matthew Date of return: 9/10/93
Number of Signs: 2

Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 9624 Pulaski Highway
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

amendment to special exemption and plan as same applies to Baltimore County Zoning Case 84-135-XA

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
Type or Print Name: _____
Signature: *Nicholas Cavalieros*
Address: _____
City: _____ State: _____ Zipcode: _____
Attorney for Petitioner
Type or Print Name: Edward C. Covahey, Jr.
Signature: *Edward C. Covahey, Jr.*
Address: 614 Bosley Avenue Phone No: 828-9441
City: Towson, Maryland Zipcode: 21204
Legal Owner
Type or Print Name: Nicholas Cavalieros
Signature: _____
Address: 9624 Pulaski Highway Phone No: 687-8298
City: Baltimore, Maryland Zipcode: 21220
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted:
Nicholas Cavalieros
9624 Pulaski Highway Phone No: 687-8298
City: Baltimore, Maryland Zipcode: 21220
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following date: _____ Next Two Months
ALL _____ OTHER _____
REVIEWED BY: *[Signature]* DATE: 9/10/93

Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 9624 Pulaski Highway
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 255.1 and 238.2 of Baltimore County Zoning Regulations for a 15 ft. side setback for proposed new addition and a 24 ft. rear setback for an existing addition.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons. (Indicate hardship or practical difficulty) Practical difficulty and undue hardship in that existing improvements may not be expanded: (1) without the required variance; (2) that irregular configuration of the property to the southwest is occasioned by Maryland State Highway Administration drainage easement, and but for the State's acquisition, requested variance would not be required; and (4) the granting of the variance will permit the existing auto body shop to be expanded and provide for the storage of motor vehicles inside an opposed to being stored outside the premises available service.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
Type or Print Name: _____
Signature: _____
Address: _____
City: _____ State: _____ Zipcode: _____
Attorney for Petitioner
Type or Print Name: Edward C. Covahey, Jr.
Signature: *Edward C. Covahey, Jr.*
Address: 614 Bosley Avenue Phone No: 828-9441
City: Towson, Maryland Zipcode: 21204
Legal Owner
Type or Print Name: Nicholas Cavalieros
Signature: *Nicholas Cavalieros*
Address: 9624 Pulaski Highway Phone No: 687-8298
City: Baltimore, Maryland Zipcode: 21220
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted:
Nicholas Cavalieros
9624 Pulaski Highway Phone No: 687-8298
City: Baltimore, Maryland Zipcode: 21220
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following date: _____ Next Two Months
ALL _____ OTHER _____
REVIEWED BY: _____ DATE: _____

PROPERTY DESCRIPTION

NEIGHBOR AUTO BODY

Beginning at a point on the Northeast side of U.S. Route 40 (Pulaski Highway) which is 100 feet wide at a distance of five hundred and seven feet and fifty five inches, more or less, from the centerline of the intersection of Middle River Road which is 30 feet wide, thence the following course and distances:

N 40° 02' 42" E 150.00' to N 47° 02' 47" W 100.00' to S 57° 31' 50" W 122.10' to S 50° 12' 54" E 111.64' to S 15° 55' 11" W 24.00' to N 49° 02' 47" W 95.20' to the place of beginning as recorded Deed Liber 2693, Folio 24.



CERTIFICATE OF PUBLICATION

TOWSON, MD. Sept. 2, 1993

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md. once in each of 1 successive weeks, the first publication appearing on Sept. 2, 1993

THE JEFFERSONIAN,

A. Henricksen

LEGAL AD. - TOWSON

Printed

Date 8/18/93

94-78-SPHA
CODE 020 ANN RES. VAR. PLAN 250.00
CODE 040 ANN RES. SPH PLAN 250.00
CODE 080 (2) SIGNS 70.00
570.00

COUNCIL CAVALIEROS
LOC. 9624 PULASKI HWY.

Please Make Checks Payable To: BALTIMORE COUNTY

Cashier Validation

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
 - 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
- NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 75

Petitioner: Nicholas Cavalieros

Location: 9624 Pulaski Highway

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Nicholas Cavalieros

ADDRESS: 9624 Pulaski Highway
Baltimore, Md. 21220

PHONE NUMBER: 687-8298

AJ:ggg

(Revised 04/09/93)

TO: PUTNAM PUBLISHING COMPANY
September 2, 1993 Issue - Jeffersonian

Please forward billing to:

Nicholas Cavalieros
9624 Pulaski Highway
Baltimore, Maryland 21220
410-687-8298

COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-78-SPHA (Item 75)
9624 Pulaski Highway - Nick's Auto Body
W/S Auto 40, S/W 40 of Middle River Road
15th Election District - 5th Councilmanic
Petitioner(s): Nicholas Cavalieros
HEARING: WEDNESDAY, OCTOBER 6, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Special Hearing to approve an amendment to special exception and plan to zoning case #94-135-3A.
Variance for a 15 foot side setback for proposed new addition and a 24 foot rear setback for an existing addition.

LABORATORY E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 27, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-78-SPHA (Item 75)
9624 Pulaski Highway - Nick's Auto Body
W/S Auto 40, S/W 40 of Middle River Road
15th Election District - 5th Councilmanic
Petitioner(s): Nicholas Cavalieros
HEARING: WEDNESDAY, OCTOBER 6, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Special Hearing to approve an amendment to special exception and plan to zoning case #94-135-3A.
Variance for a 15 foot side setback for proposed new addition and a 24 foot rear setback for an existing addition.

ARNOLD JABLON
Director

cc: Nicholas Cavalieros
Edward C. Covahey, Jr., Esq.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 27, 1993

Edward C. Covahey, Jr.
614 Bosley Avenue
Towson, Maryland 21204

RE: Case No. 94-78-SPHA, Item No. 75
Petitioner: Nicholas Cavalieros
Petition for Variance

Dear Mr. Covahey:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commission, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 18, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 7, 1993
Zoning Administration and Development Management

FROM: Robert W. Bowling, Senior Engineer
Development Plan Review Section

RE: Zoning Advisory Committee Meeting
for September 7, 1993
Item No. 75

The Development Plan Review Section has reviewed the subject zoning item. Pulaski Highway is a State Road. All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration, in addition to those of Baltimore County.

This site is subject to the landscape Manual. See the enclosed red-line plan. A final landscape plan is required prior to release of the permits.

RWB:rs

Encl:



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No: 75 (JCL)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is

Teletypewriter for Impaired Hearing or Speech
363-7855 Baltimore Metro - 565-0461 D.C. Metro - 1-800-495-6058 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 31, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item No. 75.

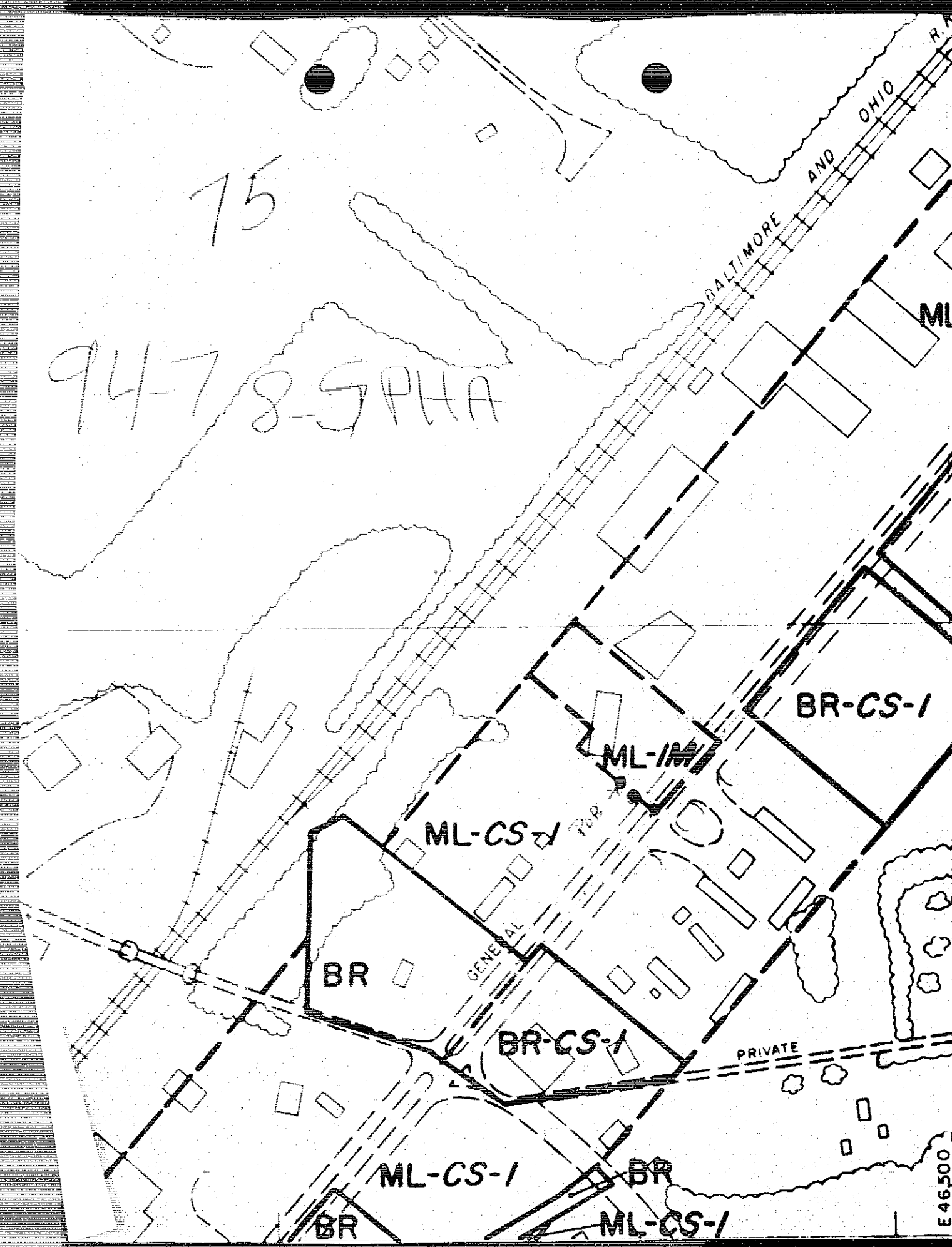
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long

Division Chief: Caryl L. Klein

PK/JL:lw

ZAC-75/PZONR/ZAC1



#75

Following up on Matt Mahoney to ask if this was sent to DRC for Status of Dev Process on 8/18/93 (filing date) left msg.

This has been on route several times over several months so I don't remember if issue ever raised but I thought it was

Spoke to Matt on 8/18/ he said hadn't gone to DRC for description review I alerted him to the review & told him he had right to assume they are exempt or could do \$40.00 LTR. He said they'd probably assume exempt.

